



BILLING CODE: 4510-29-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1985-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, “Prohibited Transaction Class Exemption 1985-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers,” to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201310-1210-002](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201310-1210-002) (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-EBSA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503; by Fax: 202-395-6881 (this is not a toll-free number); or by email:

OIRA\_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email: DOL\_PRA\_PUBLIC@dol.gov.

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at DOL\_PRA\_PUBLIC@dol.gov.

AUTHORITY: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authority for information collection activities related to Prohibited Transaction Class Exemption (PTE) 1985-68, which permits an employee benefit plan to invest in an employer's customer notes under circumstances the Employee Retirement Income Security Act of 1974 and Internal Revenue Code of 1986 would otherwise prohibit. More specifically, this PTE describes the conditions under which a plan may acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's business activity and, thus, be exempt from the prohibited transaction restrictions; provided, the exemption conditions are met. The PTE covers sales as well as contributions of customer notes by an employer to its plan. The customer notes must have been accepted by the employer in its primary business activity as the seller of

tangible personal property that is being financed by the notes, so that the exemption does not apply to notes of an employer's affiliate.

The PTE includes a recordkeeping provision that requires a plan seeking to use the exemption to maintain records that enable an interested party to determine whether the exemption conditions have been met. These records must be maintained for six (6) years from the date of the transaction. The PTE also requires those records be made available to certain persons on request. Without this recordkeeping requirement, the DOL would be hampered in enforcing the exemption terms and ensure user compliance.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210-0094.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information

about this ICR, see the related notice published in the Federal Register on May 22, 2013 (78 FR 30333).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 30 days of publication of this notice in the Federal Register. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210-0094. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-ETA.

Title of Collection: Prohibited Transaction Class Exemption 1985-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

OMB Control Number: 1210-0094.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 69.

Total Estimated Number of Responses: 325.

Total Estimated Annual Burden Hours: 1.

Total Estimated Annual Other Costs Burden: \$0.

Dated: November 29, 2013.

Michel Smyth,

Departmental Clearance Officer.

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